

TERRY A. DAKE, LTD.
11811 North Tatum Boulevard
Suite 3031
Phoenix, Arizona 85028-1621
Telephone: (480) 368-5199
Facsimile: (480) 368-5198
tdake@cox.net

Terry A. Dake - 009656

Attorney for Trustee

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF ARIZONA

In re:) In Chapter 7 Proceedings
)
GARY A. MARTINSON,)
RONNA L. MARTINSON,) Case No. 2:09-BK-33841-RJH
)
Debtors.)
)

NOTICE OF BAR DATE FOR OBJECTIONS TO TRUSTEE'S MOTION

PLEASE TAKE NOTICE that the trustee has filed the attached motion with the Court. Your rights may be affected by this motion.

You should read these papers carefully, and discuss them with your attorney if you have one. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to grant the trustee's motion, or if you want the court to consider your views on the trustee's motion, then on or before **July 2, 2010**, you or your attorney must file with the Court a written response setting forth your concerns and requesting a hearing on the trustee's motion. Your response must be filed with the Court at:

Clerk Of The Court
United States Bankruptcy Court
230 N. First Ave.
Ste. 101
Phoenix, Arizona 85003-1706

If you mail your response to the Court, you must mail it early enough so the Court will receive it on or before the date stated above.

1 You must also mail or e-mail¹ a copy of your response to the
2 attorney for the trustee at:

3 Terry A. Dake, Esq.
4 **TERRY A. DAKE, LTD.**
5 11811 North Tatum Boulevard
6 Suite 3031
7 Phoenix, Arizona 85023-1621
8 tdake@cox.net

9 If you or your attorney do not take these steps, the Court may
10 decide that you do not oppose the trustee's motion and may enter an
11 order that grants the trustee's motion without further notice or
12 hearing.

13 DATED June 8, 2010.

14 **TERRY A. DAKE, LTD.**

15 By /s/ TD009656
16 Terry A. Dake
17 11811 North Tatum Boulevard
18 Suite 3031
19 Phoenix, Arizona 85028-1621
20 Attorney for Trustee

21 ¹ E-mailed papers must be in pdf format.

1 || **TERRY A. DAKE, LTD.**
2 || 11811 North Tatum Boulevard
3 || Suite 3031
4 || Phoenix, Arizona 85028-1621
5 || Telephone: (480) 368-5199
6 || Facsimile: (480) 368-5198
7 || tdake@cox.net

8 || **Terry A. Dake - 009656**

9 || Attorney for Trustee

10 || **IN THE UNITED STATES BANKRUPTCY COURT**

11 || **FOR THE DISTRICT OF ARIZONA**

12 || In re:) In Chapter 7 Proceedings
13 ||)
14 || GARY A. MARTINSON,)
15 || RONNA L. MARTINSON,) Case No. 2:09-BK-33841-RJH
16 ||)
17 || Debtors.)
18 ||)
19 || _____)

20 || **MOTION TO APPROVE SALE OF ASSETS**

21 || The trustee moves this Court for the entry of an order
22 || approving a sale of assets of the estate. The trustee's motion is more
23 || fully set forth in and is supported by the following Memorandum Of
24 || Points And Authorities.

25 || DATED June 8, 2010.

26 || **TERRY A. DAKE, LTD.**

27 || By /s/ TD009656
28 || Terry A. Dake
1 || 11811 North Tatum Boulevard
2 || Suite 3031
3 || Phoenix, Arizona 85028-1621
4 || Attorney for Trustee

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 The trustee has received from Asset Group¹ an offer to purchase
3 all assets of the estate, with certain limited exceptions. The assets
4 to be sold include all tangible and intangible personal property of the
5 estate, and all real property of the estate, excluding any exempt assets
6 of the debtors,² and all avoidance rights of the estate under 11 U.S.C.
7 §§544-551. Other than the exempt assets of the debtors, the only other
8 assets which are excluded from this sale are the following items:

- 9 1. All cash currently held by the trustee.
10 2. All amounts due to the estate by Lohman Company, PLLC

11 The purchase price for these assets will be \$250,000.00.
12 Further, the estate shall retain the right to be paid 10% of the net
13 recovery on any of these assets, after the purchaser has first recovered
14 \$250,000.00 from the assets. The "net recovery" shall be defined as the
15 gross recovery less attorneys' fees and costs incurred in connection
16 with the recovery and liquidation of any of the assets.

17 The buyer shall have complete control over the methods and
18 procedures employed to recover on any of the assets purchased. However,
19 any settlements shall require approval by this Court. The trustee may
20 object to the reasonableness of any proposed settlement and this Court

22
23 ¹ The final purchaser may be an assignee of Asset Group.
24 Asset Group is an unincorporated association comprised of the
25 plaintiffs in Adv. No. 2:10-ap-00743-RJH.

26 ² The trustee has objected to the allowance of certain
27 exemptions. Admin. Docket No. 69. The purchaser will take over
28 the prosecution of the objection and will be entitled to the
 recovery of any assets which are determined by the Court to be non-
 exempt.

1 shall retain jurisdiction to determine whether the proposed settlement
2 is reasonable.

The trustee believes that this proposed sale is reasonable and in the best interest of the estate. The proposed sale provides an immediate and certain return to the estate, and allows the estate the potential for additional recovery without additional expense.

The agreed upon amount of \$250,000.00 shall be paid to the trustee by the purchaser not later than ten (10) days after the entry of an order approving this sale. Upon payment in full, the assets shall vest in the purchaser without further order of the Court.

Finally, the trustee understands that certain claims under Sec. 523 are being pursued by Asset Group. To the extent that there is an actual or potential conflict of interest in the pursuit of those claim and the potential recovery that is due to the estate under this sale, the trustee expressly waives that conflict, if any.

16 **WHEREFORE**, the trustee prays for the entry of an order
17 approving a compromise with the debtor as set forth herein.

18 DATED June 8, 2010.

19 **TERRY A. DAKE, LTD.**

21 By /s/ TD009656
22 Terry A. Dake
23 11811 North Tatum Boulevard
Suite 3031
Phoenix, Arizona 85028-1621

1 APPROVED AND AGREED:

2 *Vishnu R. Jounalagadda, Esq.*
3 *on behalf of*

4 **RANDY NUSSBAUM**

5 NUSSBAUM & GILLIS, P.C.

6 14500 N. NORTHSIGHT

7 BLVD. - #116

SCOTTSDALE, AZ 85260

480-609-0011

Fax : 480-609-0016

Email: russbaum@nussbaumgillis.com

Attorneys for Purchaser